

SEVENTEENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, January 25, 2006

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Zarelli.

The Washington National Guard Color Guard consisting of Master Sergeant Jason Ushor, Tech. Sergeant Brian King, Sergeant Todd Smelcer and Sergeant First Class Travis Austin presented the Colors.

The national award-winning trombone quartet composed of Washington Army National Guardsmen from the 133<sup>rd</sup> Army Band consisting of First Sergeant Rebecca Sharrett, Staff Sergeant Thomas Lee, Sergeant Patrick O'Hara and Sergeant Jeffrey Vogel performed the national anthem.

Chaplain Lt. Col. Kenneth Hegtvedt of the Washington Army National Guard offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

January 24, 2006  
SB 6199 Prime Sponsor, Rockefeller: Regulating sports entertainment facility liquor license fees. Reported by Committee on Labor, Commerce, Research & Development

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Honeyford, Keiser and Parlette

Passed to Committee on Rules for second reading.

January 23, 2006  
SB 6204 Prime Sponsor, Jacobsen: Modifying the imposition of the regional transportation investment district vehicle surcharge. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Jacobsen, Vice Chair; Benson, Benton, Esser, Finkbeiner, Kastama, Mulliken, Spanel and Weinstein

Passed to Committee on Rules for second reading.

January 24, 2006  
SB 6217 Prime Sponsor, Kastama: Making permanent the enhanced 911 advisory committee. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6217 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Berkey, Vice Chair; Benton, Fairley, Haugen, Kline, McCaslin, Mulliken, Pridemore and Roach

Passed to Committee on Rules for second reading.

January 19, 2006  
SB 6247 Prime Sponsor, Haugen: Providing uniform administration of locally imposed motor vehicle excise taxes. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6247 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Jacobsen, Vice Chair; Poulsen, Vice Chair; Berkey, Eide, Esser, Kastama, Mulliken, Sheldon, Spanel, Swecker and Weinstein

MINORITY recommendation: Without recommendation. Signed by Senators Benson and Benton

Passed to Committee on Rules for second reading.

January 24, 2006  
SB 6257 Prime Sponsor, Delvin: Exempting guest services or crowd management employees from the requirements of chapter 18.170 RCW. Reported by Committee on Labor, Commerce, Research & Development

MAJORITY recommendation: That Substitute Senate Bill No. 6257 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Honeyford, Keiser and Parlette

Passed to Committee on Rules for second reading.

January 24, 2006  
SB 6262 Prime Sponsor, Kohl-Welles: Establishing a pilot program to allow employers to assist employees in completing applications for industrial insurance benefits. Reported by Committee on Labor, Commerce, Research & Development

MAJORITY recommendation: That Substitute Senate Bill No. 6262 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Honeyford, Keiser and Parlette

Passed to Committee on Rules for second reading.

January 23, 2006  
SB 6381 Prime Sponsor, Haugen: Providing a windshield tint exemption for law enforcement vehicles. Revised for 1st Substitute: Providing a window tint exemption for law enforcement vehicles. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6381 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Jacobsen, Vice Chair; Benson, Benton, Eide, Esser, Finkbeiner, Kastama, Mulliken, Oke, Spanel and Weinstein

Passed to Committee on Rules for second reading.

January 24, 2006  
SB 6396 Prime Sponsor, Kohl-Welles: Modifying the accumulation and use of sick leave accrued by part-time faculty. Reported by Committee on Labor, Commerce, Research & Development

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MAJORITY recommendation: That Substitute Senate Bill No. 6396 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Honeyford, Keiser and Parlette

Passed to Committee on Ways & Means.

January 23, 2006

SB 6431 Prime Sponsor, Kastama: Regarding the state interoperability executive committee. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6431 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Benton, Fairley, Haugen, McCaslin, Pridemore and Roach

Passed to Committee on Rules for second reading.

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SB 6575 Prime Sponsor, Rasmussen: Identifying accessory uses on agricultural lands. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 6575 be substituted therefor, and the substitute bill do pass. Signed by Senators Rasmussen, Chair; Shin, Vice Chair; Delvin, Jacobsen, Morton, Schoesler and Sheldon

Passed to Committee on Rules.

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SB 6653 Prime Sponsor, Kastama: Modifying address confidentiality program provisions. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Berkey, Vice Chair; Benton, Fairley, Haugen, Kline, McCaslin, Mulliken, Pridemore and Roach

Passed to Committee on Rules for second reading.

January 23, 2006

SB 6680 Prime Sponsor, Brandland: Implementing a biometric matching system for driver's licenses and identicards. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Jacobsen, Vice Chair; Benson, Benton, Eide, Esser, Finkbeiner, Kastama, Mulliken, Oke, Spanel and Weinstein

Passed to Committee on Rules for second reading.

January 24, 2006

ESHB 2661 Prime Sponsor, Committee on State Government Operations & Accountability: Expanding the jurisdiction of the human rights commission. Reported by Committee on Financial Institutions, Housing & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Berkey, Vice Chair; Finkbeiner, Franklin, Keiser, Prentice and Spanel

MINORITY recommendation: Do not pass. Signed by Senators Benson, Benton and Schmidt

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 6575 which was referred to the Committee on Rules and Senate Bill No. 6396 which was referred to the Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

#### INTRODUCTION AND FIRST READING

SB 6807 by Senators Roach, Benton, Sheldon, Oke and Stevens

AN ACT Relating to prohibiting the condemnation of unblighted private property for private use; amending RCW 35.81.005, 35.81.080, and 35.81.090; creating a new section; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

SB 6808 by Senators Roach, Benton, Sheldon, Oke and Stevens

AN ACT Relating to protecting private property rights; adding a new chapter to Title 8 RCW; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

SB 6809 by Senator Keiser

AN ACT Relating to resident participation in the informal dispute resolution process; amending RCW 18.20.195; and adding a new section to chapter 18.51 RCW.

Referred to Committee on Health & Long-Term Care.

SB 6810 by Senator Keiser

AN ACT Relating to temporary management in boarding homes; and adding new sections to chapter 18.20 RCW.

Referred to Committee on Health & Long-Term Care.

SB 6811 by Senators Kastama, Shin, Rasmussen and Kline

AN ACT Relating to the Washington promise scholarship; creating a new section; and making an appropriation.

Referred to Committee on Early Learning, K-12 & Higher Education.

SB 6812 by Senators Zarelli, Pridemore and Benton

AN ACT Relating to providing tax incentives to support the semiconductor cluster in Washington state; amending RCW 82.04.440, 82.32.590, and 82.32.600; adding a new section

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to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.32 RCW; creating new sections; providing a contingent effective date; and providing expiration dates.

Referred to Committee on Ways & Means.

SB 6813 by Senators Roach and Keiser

AN ACT Relating to binding arbitration for juvenile corrections employees; and amending RCW 41.56.030 and 41.56.465.

Referred to Committee on Labor, Commerce, Research & Development.

SB 6814 by Senators Poulsen, Finkbeiner and Kline

AN ACT Relating to automatic dialing and announcing devices; amending RCW 80.36.400; adding a new section to chapter 80.36 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Water, Energy & Environment.

SB 6815 by Senator Roach

AN ACT Relating to instruction in Spanish and Chinese; amending RCW 28A.410.025; and creating new sections.

Referred to Committee on Early Learning, K-12 & Higher Education.

SB 6816 by Senator Zarelli

AN ACT Relating to cemetery districts; and amending RCW 68.52.210.

Referred to Committee on Government Operations & Elections.

SB 6817 by Senators Carrell, Benton and Sheldon

AN ACT Relating to fluorescent yellow license plates for persons convicted of driving under the influence; reenacting and amending RCW 46.63.020; adding a new section to chapter 46.16 RCW; adding a new section to chapter 46.61 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6818 by Senators Benton, McCaslin and Roach

AN ACT Relating to utility liens against rental property; and amending RCW 35.21.290, 35.67.200, and 36.94.150.

Referred to Committee on Water, Energy & Environment.

SB 6819 by Senators Benton, McCaslin, Hargrove, Roach and Sheldon

AN ACT Relating to payment responsibility for utility service; and amending RCW 35.21.290, 35.67.200, 36.94.150, 57.08.081, and 80.28.010.

Referred to Committee on Water, Energy & Environment.

SB 6820 by Senators Keiser, Deccio, Thibaudeau, Parlette, Franklin, Benson and Kline

AN ACT Relating to application requirements for licensing physicians; and amending RCW 18.71.050.

Referred to Committee on Health & Long-Term Care.

SB 6821 by Senators McAuliffe, Schmidt, Weinstein, Kohl-Welles, Pridemore, Benton, Delvin, Rasmussen and Franklin

AN ACT Relating to college and career readiness centers; and creating new sections.

Referred to Committee on Early Learning, K-12 & Higher Education.

SB 6822 by Senators Kohl-Welles, Fairley and Kline

AN ACT Relating to identification documents; adding a new section to chapter 19.192 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Labor, Commerce, Research & Development.

SB 6823 by Senator Kohl-Welles

AN ACT Relating to the distribution of beer and wine by wineries and breweries located inside and outside Washington state to Washington retail liquor licensees; amending RCW 66.24.170, 66.24.240, 66.24.206, 66.24.210, 66.24.270, 66.24.290, 66.28.180, and 42.56.270; reenacting and amending RCW 66.24.244, 66.28.070, 66.28.180, and 42.17.310; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Labor, Commerce, Research & Development.

SB 6824 by Senators Kohl-Welles, Brandland, Regala, McAuliffe and Kline

AN ACT Relating to safe residential housing for persons with developmental disabilities; and adding a new section to chapter 43.43 RCW.

Referred to Committee on Human Services & Corrections.

SB 6825 by Senator Benton

AN ACT Relating to the boundary review board's authority to modify annexation proposals; and amending RCW 36.93.150.

Referred to Committee on Government Operations & Elections.

SB 6826 by Senator Benton

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AN ACT Relating to public utility taxes imposed on fees and charges for public transit services; and amending RCW 82.16.050.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Transportation.

SB 6827 by Senators Finkbeiner, Esser, Rasmussen and Hewitt

AN ACT Relating to designating the Walla Walla sweet onion as the official Washington state vegetable; and adding a new section to chapter 1.20 RCW.

SJM 8036 by Senators Benton and Roach

Petitioning Congress to protect intellectual and physical property rights.

Referred to Committee on Judiciary.

Referred to Committee on Agriculture & Rural Economic Development.

SJM 8037 by Senators Haugen, Mulliken, Spanel, Benson, Benton and Kohl-Welles

Calling on the President and Congress to repeal the REAL ID Act of 2005.

SB 6828 by Senators Esser, Roach and McCaslin

AN ACT Relating to preventing the rejection of ballots if they are marked to identify the voter; and amending RCW 29A.60.040.

Referred to Committee on Transportation.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

Referred to Committee on Government Operations & Elections.

#### MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

SB 6829 by Senators Benton, Carrell and Oke

AN ACT Relating to most serious offenses; amending RCW 9.94A.030 and 9.94A.030; creating a new section; providing an effective date; and providing an expiration date.

#### MOTION

Senator Schmidt moved adoption of the following resolution:

Referred to Committee on Judiciary.

#### SENATE RESOLUTION 8699

SB 6830 by Senators Benton, Haugen, Benson, Oke, Deccio, Schmidt, Sheldon, Weinstein, Poulsen, Roach, Pridemore, Zarelli, McAuliffe, Carrell, Kohl-Welles, Rasmussen, Eide, Shin, Rockefeller, Delvin, Franklin and Johnson

AN ACT Relating to "Support Our Troops" special license plates; amending RCW 46.16.765, 46.16.745, and 46.16.316; reenacting and amending RCW 46.16.313 and 46.16.725; adding new sections to chapter 46.16 RCW; and adding a new section to chapter 46.04 RCW.

By Senators Schmidt, Benson, Hewitt, Parlette, Shin, Berkey, Rockefeller, Stevens and Honeyford

Referred to Committee on Transportation.

WHEREAS, Nearly eighty-six hundred men and women of the Washington National Guard continue to serve the country as guardians of American interests at home and abroad; and

WHEREAS, These recognized leaders in state, regional, and national preparedness, who reside in every legislative district throughout Washington, volunteer their time and personal efforts to serve the needs of the people of Washington state; and

WHEREAS, The Guard answered the state's call numerous times in response to fire fighting and flood support efforts and to protect lives in both civil and natural emergencies and disasters; and

SB 6831 by Senator Thibaudeau

AN ACT Relating to access to individual health insurance coverage; amending RCW 48.41.040, 48.41.060, 48.41.100, 48.41.110, 48.41.160, 48.41.190, 48.43.005, and 48.43.041; and providing an effective date.

WHEREAS, The Washington Army and Air National Guard provided critical mission support in both personnel and equipment to Operation Iraqi Freedom and Operation Enduring Freedom in Iraq and Afghanistan, respectively, and Operation Noble Eagle here at home; and

WHEREAS, The Washington Army and Air National Guard answered the call in support of hurricane relief efforts on the Gulf Coast resulting from Hurricanes Katrina, Rita, and Wilma; and

Referred to Committee on Health & Long-Term Care.

WHEREAS, The Guard continues to train and prepare for both natural disasters and threats to our national security; and

SB 6832 by Senators Carrell, Benton and Stevens

AN ACT Relating to community protection zones; and adding a new section to chapter 9.94A RCW.

WHEREAS, The Guard continues to promote positive lifestyles and activities for Washington's youth through involvement in and support of highly effective drug prevention programs with school-aged children and community-based organizations; and

Referred to Committee on Human Services & Corrections.

WHEREAS, The Guard continues to actively participate in the state's counter-drug efforts by providing soldiers, airmen, and specialized equipment to over thirty-five local, state, and federal law enforcement agencies; and

SJM 8035 by Senators Benton and Roach

Petitioning Congress to pass the defense appropriations bill quickly.

WHEREAS, The Guard adds value to communities by opening its readiness centers for public use, food banks, and

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other community and youth activities. The Guard continues to build upon these readiness centers and armories throughout the state to enhance education, add to quality of life, and increase economic vitality;

NOW, THEREFORE, BE IT RESOLVED, That the Senate express its thanks and appreciation to the devoted families and dedicated employers of our Washington National Guard soldiers and airmen for their support, without whom the Guard's missions could not be successful; and

BE IT FURTHER RESOLVED, That the Senate recognize the value and dedication of a strong Washington National Guard to the viability, economy, safety, security, and well-being of this state, both through the outstanding performance of its state emergency and disaster relief mission, and through the continued benefit to local communities by the presence of productively employed, drug-free, well-equipped, and trained Guard units and the readiness centers and armories that house them; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to The Adjutant General of the Washington National Guard, the Governor of the State of Washington, the Secretaries of the United States Army and Air Force, and the President of the United States.

Senators Schmidt, Shin, Oke, Rockefeller, Benson, Rasmussen and Franklin spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8699.

The motion by Senator Schmidt carried and the resolution was adopted by voice vote.

#### POINT OF PERSONAL PRIVILEGE

Senator Honeyford: "Thank you Mr. President. I'm not sure what I have but I have a request for you. We have the two gentlemen that have been awarded the silver star. I think the Senate should recognize them. They are Specialist Gerrit Kobes that was awarded for action in Iraq and Technical Sergeant Kevin G. Whalen for actions in Afghanistan and I think it would be appropriate to have them rise."

#### INTRODUCTION OF SPECIAL GUEST

The President introduced Specialist Gerrit Kobes of Kettle Falls and Technical Sergeant Kevin G. Whalen who were present in the gallery and recognized by the Senate.

#### MOTION

At 10:36 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:21 a.m. by President Owen.

#### MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Shin moved that Gubernatorial Appointment No. 9388, Juli Wilkerson, as Director of the Department of Community, Trade and Economic Development, be confirmed.

Senators Shin and Regala spoke in favor of the motion.

#### MOTION

On motion of Senator Schoesler, Senator Zarelli was excused.

#### APPOINTMENT OF JULI WILKERSON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9388, Juli Wilkerson as Director of the Department of Community, Trade and Economic Development.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9388, Juli Wilkerson as Director of the Department of Community, Trade and Economic Development and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 47

Absent: Senator Stevens - 1

Excused: Senator Zarelli - 1

Gubernatorial Appointment No. 9388, Juli Wilkerson, having received the constitutional majority was declared confirmed as Director of the Department of Community, Trade and Economic Development.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Kohl-Welles moved that Gubernatorial Appointment No. 9331, Karen Lee, as a Commissioner of the Employment Security Department, be confirmed.

Senators Kohl-Welles and Franklin spoke in favor of the motion.

#### APPOINTMENT OF KAREN LEE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9331, Karen Lee as a Commissioner of the Employment Security Department.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9331, Karen Lee as a Commissioner of the Employment Security Department and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 48

Excused: Senator Zarelli - 1

Gubernatorial Appointment No. 9331, Karen Lee, having received the constitutional majority was declared confirmed as a Commissioner of the Employment Security Department.

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## MOMENT OF SILENCE

The Senate observed a moment of silence in memory of Donald Zarelli, the father of Senator Zarelli, who passed away January 25, 2006.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Fraser, moved that Gubernatorial Appointment No. 9104, David Lamb, as a member of the Board of Trustees, The Evergreen State College, be confirmed.

Senators Fraser and Swecker spoke in favor of the motion.

## APPOINTMENT OF DAVID LAMB

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9104, David Lamb as a member of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9104, David Lamb as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote:  
Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 48

Excused: Senator Zarelli - 1

Gubernatorial Appointment No. 9104, David Lamb, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, The Evergreen State College.

## SECOND READING

SENATE BILL NO. 6594, by Senators Regala, Prentice, Doumit, Eide, Keiser, Fairley, Franklin and Kline

Conforming Washington's tax structure to the streamlined sales and use tax agreement.

## MOTIONS

On motion of Senator Prentice, Substitute Senate Bill No. 6594 was substituted for Senate Bill No. 6594 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Prentice, the rules were suspended, Substitute Senate Bill No. 6594 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice, Regala and Schoesler spoke in favor of passage of the bill.

Senator Benton spoke on passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6594.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6594 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley,

Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 48

Excused: Senator Zarelli - 1

SUBSTITUTE SENATE BILL NO. 6594, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2661, by House Committee on State Government Operations & Accountability (originally sponsored by Representatives Murray, Hankins, Pettigrew, Jarrett, McDermott, Grant, Lovick, Haigh, Moeller, Shabro, Santos, Kessler, Upthegrove, Tom, Hunter, Hasegawa, Walsh, Fromhold, Springer, Appleton, McCoy, Chase, Hudgins, Kenney, Lantz, Hunt, Darneille, Quall, Takko, Sommers, Williams, Sells, Green, Schual-Berke, Simpson, Clibborn, Conway, Linville, Cody, Kagi, B. Sullivan, McIntire, Dickerson, Miloscia, Roberts and Ormsby)

Expanding the jurisdiction of the human rights commission.

The measure was read the second time.

## MOTION

Senator Stevens moved that the following amendment by Senators Stevens and Hargrove be adopted:

On page 6, line 20, after "identity" insert "but does not include bestiality, necrophilia, incest, adultery, pedophilia, or sadomasochism"

Renumber the sections consecutively and correct any internal references accordingly.

Senators Stevens and Hargrove spoke in favor of adoption of the amendment.

Senator Weinstein spoke against adoption of the amendment.

Senator Esser demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senators Stevens and Hargrove on page 6, line 20, to Engrossed Substitute House Bill No. 2661.

## ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Stevens and Hargrove and the amendment was not adopted by the following vote: Yeas, 22; Nays, 25; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Brandland, Carrell, Deccio, Delvin, Esser, Hargrove, Hewitt, Honeyford, Johnson, McCaslin, Morton, Oke, Parlette, Pflug, Roach, Schmidt, Schoesler, Sheldon, Stevens and Swecker - 22

Voting nay: Senators Berkey, Brown, Doumit, Eide, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 25

Absent: Senator Mulliken - 1

Excused: Senator Zarelli - 1

## MOTION

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Senator Swecker moved that the following amendment by Senator Swecker be adopted.

On page 19, after line 22, insert the following:

**"NEW SECTION. Sec. 19.** The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

On page 1, line 5 of the title, after "48.30.300;" strike "and" and after "49.60.222" insert "; and providing for submission of this act to a vote of the people"

Senators Swecker and Deccio spoke in favor of adoption of the amendment.

Senator Brown spoke against adoption of the amendment.

Senator Benton spoke on adoption of the amendment.

Senator Esser demanded a roll call.

The President declared that one-sixth of the Senate supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 19, after line 22 to Engrossed Substitute House Bill No. 2661.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Swecker and the amendment was not adopted by the following vote: Yeas, 23; Nays, 25; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Brandland, Carrell, Deccio, Delvin, Esser, Hargrove, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Roach, Schmidt, Schoesler, Sheldon, Stevens and Swecker - 23

Voting nay: Senators Berkey, Brown, Doumit, Eide, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 25

Excused: Senator Zarelli - 1

#### MOTION

Senator Fairley moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Consumer Protection be adopted.

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 49.60.010 and 1997 c 271 s 1 are each amended to read as follows:

This chapter shall be known as the "law against discrimination((<sup>4</sup>))." It is an exercise of the police power of the state for the protection of the public welfare, health, and peace of the people of this state, and in fulfillment of the provisions of the Constitution of this state concerning civil rights. The legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is herein created with powers with respect to elimination and prevention of discrimination in employment, in credit and insurance transactions, in places of public resort, accommodation, or amusement, and in real property transactions because of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

**Sec. 2.** RCW 49.60.020 and 1993 c 510 s 2 are each amended to read as follows:

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The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of any other law of this state relating to discrimination because of race, color, creed, national origin, sex, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability, other than a law which purports to require or permit doing any act which is an unfair practice under this chapter. Nor shall anything herein contained be construed to deny the right to any person to institute any action or pursue any civil or criminal remedy based upon an alleged violation of his or her civil rights. This chapter shall not be construed to endorse any specific belief, practice, behavior, or orientation. Inclusion of sexual orientation in this chapter shall not be construed to modify or supersede state law relating to marriage.

**Sec. 3.** RCW 49.60.030 and 1997 c 271 s 2 are each amended to read as follows:

(1) The right to be free from discrimination because of race, creed, color, national origin, sex, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person is recognized as and declared to be a civil right. This right shall include, but not be limited to:

(a) The right to obtain and hold employment without discrimination;

(b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;

(c) The right to engage in real estate transactions without discrimination, including discrimination against families with children;

(d) The right to engage in credit transactions without discrimination;

(e) The right to engage in insurance transactions or transactions with health maintenance organizations without discrimination: PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this subparagraph; and

(f) The right to engage in commerce free from any discriminatory boycotts or blacklists. Discriminatory boycotts or blacklists for purposes of this section shall be defined as the formation or execution of any express or implied agreement, understanding, policy or contractual arrangement for economic benefit between any persons which is not specifically authorized by the laws of the United States and which is required or imposed, either directly or indirectly, overtly or covertly, by a foreign government or foreign person in order to restrict, condition, prohibit, or interfere with or in order to exclude any person or persons from any business relationship on the basis of race, color, creed, religion, sex, sexual orientation, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person, or national origin or lawful business relationship: PROVIDED HOWEVER, That nothing herein contained shall prohibit the use of boycotts as authorized by law pertaining to labor disputes and unfair labor practices.

(2) Any person deeming himself or herself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit including reasonable attorneys' fees or any other appropriate remedy authorized by this chapter or the United States Civil Rights Act of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(3) Except for any unfair practice committed by an employer against an employee or a prospective employee, or any unfair practice in a real estate transaction which is the basis for relief specified in the amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any unfair practice prohibited by this chapter which is committed in the course of trade or commerce as defined in the Consumer Protection Act, chapter 19.86 RCW, is, for the purpose of applying that chapter, a matter affecting the public interest, is not reasonable in relation to the development and preservation of business, and is an unfair or deceptive act in trade or commerce.

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**Sec. 4.** RCW 49.60.040 and 1997 c 271 s 3 are each amended to read as follows:

~~((As used in this chapter))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof;

(2) "Commission" means the Washington state human rights commission;

(3) "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit;

(4) "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person;

(5) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment;

(6) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer;

(7) "Marital status" means the legal status of being married, single, separated, divorced, or widowed;

(8) "National origin" includes "ancestry";

(9) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person, to be treated as not welcome, accepted, desired, or solicited;

(10) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;

(11) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

(12) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services;

(13) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof;

(14) "Sex" means gender;

(15) "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth;

(16) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur;

~~((16))~~ (17) "Complainant" means the person who files a complaint in a real estate transaction;

~~((17))~~ (18) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction;

~~((18))~~ (19) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred;

~~((19))~~ (20) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

~~((20))~~ (21) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units;

~~((21))~~ (22) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building;

~~((22))~~ (23) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons;

~~((23))~~ (24) "Service animal" means an animal that is trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability.

**Sec. 5.** RCW 49.60.120 and 1997 c 271 s 4 are each amended to read as follows:

The commission shall have the functions, powers, and duties:

(1) To appoint an executive director and chief examiner, and such investigators, examiners, clerks, and other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(2) To obtain upon request and utilize the services of all governmental departments and agencies.

(3) To adopt, ~~((promulgate))~~ amend, and rescind suitable rules ~~((and regulations))~~ to carry out the provisions of this chapter, and the policies and practices of the commission in connection therewith.

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(4) To receive, impartially investigate, and pass upon complaints alleging unfair practices as defined in this chapter.

(5) To issue such publications and ((such)) results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of sex, sexual orientation, race, creed, color, national origin, marital status, age, or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person.

(6) To make such technical studies as are appropriate to effectuate the purposes and policies of this chapter and to publish and distribute the reports of such studies.

(7) To cooperate and act jointly or by division of labor with the United States or other states, with other Washington state agencies, commissions, and other government entities, and with political subdivisions of the state of Washington and their respective human rights agencies to carry out the purposes of this chapter. However, the powers which may be exercised by the commission under this subsection permit investigations and complaint dispositions only if the investigations are designed to reveal, or the complaint deals only with, allegations which, if proven, would constitute unfair practices under this chapter. The commission may perform such services for these agencies and be reimbursed therefor.

(8) To foster good relations between minority and majority population groups of the state through seminars, conferences, educational programs, and other intergroup relations activities.

**Sec. 6.** RCW 49.60.130 and 1997 c 271 s 5 are each amended to read as follows:

The commission has power to create such advisory agencies and conciliation councils, local, regional, or statewide, as in its judgment will aid in effectuating the purposes of this chapter. The commission may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of sex, race, creed, color, national origin, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person; to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the state, and to make recommendations to the commission for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which the commission may recommend to the appropriate state agency.

Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and the commission may make provision for technical and clerical assistance to such agencies and councils and for the expenses of such assistance. The commission may use organizations specifically experienced in dealing with questions of discrimination.

**Sec. 7.** RCW 49.60.175 and 1997 c 271 s 7 are each amended to read as follows:

It shall be an unfair practice to use the sex, race, creed, color, national origin, marital status, sexual orientation, or the presence of any sensory, mental, or physical disability of any person, or the use of a trained dog guide or service animal by a disabled person, concerning an application for credit in any credit transaction to determine the credit worthiness of an applicant.

**Sec. 8.** RCW 49.60.176 and 1997 c 271 s 8 are each amended to read as follows:

(1) It is an unfair practice for any person whether acting for himself, herself, or another in connection with any credit transaction because of race, creed, color, national origin, sex, marital status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person:

(a) To deny credit to any person;

(b) To increase the charges or fees for or collateral required to secure any credit extended to any person;

(c) To restrict the amount or use of credit extended or to impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto;

(d) To attempt to do any of the unfair practices defined in this section.

(2) Nothing in this section shall prohibit any party to a credit transaction from considering the credit history of any individual applicant.

(3) Further, nothing in this section shall prohibit any party to a credit transaction from considering the application of the community property law to the individual case or from taking reasonable action thereon.

**Sec. 9.** RCW 49.60.178 and 1997 c 271 s 9 are each amended to read as follows:

It is an unfair practice for any person whether acting for himself, herself, or another in connection with an insurance transaction or transaction with a health maintenance organization to cancel or fail or refuse to issue or renew insurance or a health maintenance agreement to any person because of sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person: **PROVIDED**, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this section. For the purposes of this section, "insurance transaction" is defined in RCW 48.01.060, health maintenance agreement is defined in RCW 48.46.020, and "health maintenance organization" is defined in RCW 48.46.020.

The fact that such unfair practice may also be a violation of chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an action brought under this section.

The insurance commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW, shall have concurrent jurisdiction under this section and shall enter into a working agreement as to procedure to be followed in complaints under this section.

**Sec. 10.** RCW 49.60.180 and 1997 c 271 s 10 are each amended to read as follows:

It is an unfair practice for any employer:

(1) To refuse to hire any person because of age, sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person, unless based upon a bona fide occupational qualification: **PROVIDED**, That the prohibition against discrimination because of such disability shall not apply if the particular disability prevents the proper performance of the particular worker involved: **PROVIDED**, That this section shall not be construed to require an employer to establish employment goals or quotas based on sexual orientation.

(2) To discharge or bar any person from employment because of age, sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person.

(3) To discriminate against any person in compensation or in other terms or conditions of employment because of age, sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person: **PROVIDED**, That it shall not be an unfair practice for an employer to segregate washrooms or locker facilities on the basis of sex, or to base other terms and conditions of employment on the sex of employees where the commission by regulation or ruling in a particular instance has found the employment practice to be appropriate for the practical realization of equality of opportunity between the sexes.

(4) To print, or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to age, sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: **PROVIDED**, Nothing contained herein shall prohibit advertising in a foreign language.

**Sec. 11.** RCW 49.60.190 and 1997 c 271 s 11 are each amended to read as follows:

It is an unfair practice for any labor union or labor organization:

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(1) To deny membership and full membership rights and privileges to any person because of age, sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person.

(2) To expel from membership any person because of age, sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person.

(3) To discriminate against any member, employer, employee, or other person to whom a duty of representation is owed because of age, sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person.

**Sec. 12.** RCW 49.60.200 and 1997 c 271 s 12 are each amended to read as follows:

It is an unfair practice for any employment agency to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against, an individual because of age, sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person, or to print or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification or discrimination as to age, sex, race, sexual orientation, creed, color, or national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: PROVIDED, Nothing contained herein shall prohibit advertising in a foreign language.

**Sec. 13.** RCW 49.60.215 and 1997 c 271 s 13 are each amended to read as follows:

It shall be an unfair practice for any person or the person's agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination, or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement, except for conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, national origin, sexual orientation, sex, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person: PROVIDED, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a disabled person except as otherwise required by law: PROVIDED, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice.

**Sec. 14.** RCW 49.60.222 and 1997 c 400 s 3 and 1997 c 271 s 14 are each reenacted and amended to read as follows:

(1) It is an unfair practice for any person, whether acting for himself, herself, or another, because of sex, marital status, sexual orientation, race, creed, color, national origin, families with children status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person:

(a) To refuse to engage in a real estate transaction with a person;

(b) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;

(c) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;

(d) To refuse to negotiate for a real estate transaction with a person;

(e) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit the person to inspect real property;

(f) To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling, to any person; or to a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or to any person associated with the person buying or renting;

(g) To make, print, circulate, post, or mail, or cause to be so made or published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;

(h) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;

(i) To expel a person from occupancy of real property;

(j) To discriminate in the course of negotiating, executing, or financing a real estate transaction whether by mortgage, deed of trust, contract, or other instrument imposing a lien or other security in real property, or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee, or other aspect of the transaction. Nothing in this section shall limit the effect of RCW 49.60.176 relating to unfair practices in credit transactions; or

(k) To attempt to do any of the unfair practices defined in this section.

(2) For the purposes of this chapter discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the dwelling, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted;

(b) To refuse to make reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford a person with the presence of any sensory, mental, or physical disability and/or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person equal opportunity to use and enjoy a dwelling; or

(c) To fail to design and construct covered multifamily dwellings and premises in conformance with the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws or regulations pertaining to access by persons with any sensory, mental, or physical disability or use of a trained dog guide or service animal. Whenever the requirements of applicable laws or regulations differ, the requirements which require greater accessibility for persons with any sensory, mental, or physical disability shall govern.

Nothing in (a) or (b) of this subsection shall apply to: (i) A single-family house rented or leased by the owner if the owner does not own or have an interest in the proceeds of the rental or lease of more than three such single-family houses at one time, the rental or lease occurred without the use of a real estate broker or salesperson, as defined in RCW 18.85.010, and the rental or lease occurred without the publication, posting, or mailing of any advertisement, sign, or statement in violation of subsection (1)(g) of this section; or (ii) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the rooms or units as his or her residence.

(3) Notwithstanding any other provision of this chapter, it shall not be an unfair practice or a denial of civil rights for any public or private educational institution to separate the sexes or give preference to or limit use of dormitories, residence halls, or other student housing to persons of one sex or to make distinctions on the basis of marital or families with children status.

(4) Except pursuant to subsection (2)(a) of this section, this section shall not be construed to require structural changes, modifications, or additions to make facilities accessible to a

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disabled person except as otherwise required by law. Nothing in this section affects the rights, responsibilities, and remedies of landlords and tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to post and enforce reasonable rules of conduct and safety for all tenants and their guests, provided that chapters 59.18 and 59.20 RCW are only affected to the extent they are inconsistent with the nondiscrimination requirements of this chapter. Nothing in this section limits the applicability of any reasonable federal, state, or local restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(5) Notwithstanding any other provision of this chapter, it shall not be an unfair practice for any public establishment providing for accommodations offered for the full enjoyment of transient guests as defined by RCW 9.91.010(1)(c) to make distinctions on the basis of families with children status. Nothing in this section shall limit the effect of RCW 49.60.215 relating to unfair practices in places of public accommodation.

(6) Nothing in this chapter prohibiting discrimination based on families with children status applies to housing for older persons as defined by the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995. Nothing in this chapter authorizes requirements for housing for older persons different than the requirements in the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.

(7) Nothing in this chapter shall apply to real estate transactions involving the sharing of a dwelling unit, or rental or sublease of a portion of a dwelling unit, when the dwelling unit is to be occupied by the owner or sublesor. For purposes of this section, "dwelling unit" has the same meaning as in RCW 59.18.030.

**Sec. 15.** RCW 49.60.223 and 1997 c 271 s 15 are each amended to read as follows:

It is an unfair practice for any person, for profit, to induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, creed, color, sex, national origin, sexual orientation, families with children status, or with any sensory, mental, or physical disability and/or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person.

**Sec. 16.** RCW 49.60.224 and 1997 c 271 s 16 are each amended to read as follows:

(1) Every provision in a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, creed, color, sex, national origin, sexual orientation, families with children status, or with any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person, and every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, creed, color, sex, national origin, sexual orientation, families with children status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person is void.

(2) It is an unfair practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.

**Sec. 17.** RCW 49.60.225 and 1997 c 271 s 17 are each amended to read as follows:

(1) When a reasonable cause determination has been made under RCW 49.60.240 that an unfair practice in a real estate transaction has been committed and a finding has been made that the respondent has engaged in any unfair practice under RCW 49.60.250, the administrative law judge shall promptly issue an order for such relief suffered by the aggrieved person as may be appropriate, which may include actual damages as provided by the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable relief. Such order may, to further the public interest, assess a civil penalty against the respondent:

(a) In an amount up to ten thousand dollars if the respondent has not been determined to have committed any prior unfair practice in a real estate transaction;

(b) In an amount up to twenty-five thousand dollars if the respondent has been determined to have committed one other unfair practice in a real estate transaction during the five-year period ending on the date of the filing of this charge; or

(c) In an amount up to fifty thousand dollars if the respondent has been determined to have committed two or more unfair practices in a real estate transaction during the seven-year period ending on the date of the filing of this charge, for loss of the right secured by RCW 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as now or hereafter amended, to be free from discrimination in real property transactions because of sex, marital status, race, creed, color, national origin, sexual orientation, families with children status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person. Enforcement of the order and appeal therefrom by the complainant or respondent may be made as provided in RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice in a real estate transaction that is the object of the charge are determined to have been committed by the same natural person who has been previously determined to have committed acts constituting an unfair practice in a real estate transaction, then the civil penalty of up to fifty thousand dollars may be imposed without regard to the period of time within which any subsequent unfair practice in a real estate transaction occurred. All civil penalties assessed under this section shall be paid into the state treasury and credited to the general fund.

(2) Such order shall not affect any contract, sale, conveyance, encumbrance, or lease consummated before the issuance of an order that involves a bona fide purchaser, encumbrancer, or tenant who does not have actual notice of the charge filed under this chapter.

(3) Notwithstanding any other provision of this chapter, persons awarded damages under this section may not receive additional damages pursuant to RCW 49.60.250.

**Sec. 18.** RCW 48.30.300 and 2005 c 223 s 19 are each amended to read as follows:

Notwithstanding any provision contained in Title 48 RCW to the contrary:

A person or entity engaged in the business of insurance in this state may not refuse to issue any contract of insurance or cancel or decline to renew such contract because of the sex ((or)), marital status, or sexual orientation as defined in RCW 49.60.040, or the presence of any sensory, mental, or physical handicap of the insured or prospective insured. The amount of benefits payable, or any term, rate, condition, or type of coverage may not be restricted, modified, excluded, increased, or reduced on the basis of the sex ((or)), marital status, or sexual orientation, or be restricted, modified, excluded, or reduced on the basis of the presence of any sensory, mental, or physical handicap of the insured or prospective insured. This subsection does not prohibit fair discrimination on the basis of sex, or marital status, or the presence of any sensory, mental, or physical handicap when bona fide statistical differences in risk or exposure have been substantiated."

On page 1, line 2 of the title, after "commission;" strike the remainder of the title and insert "amending RCW 49.60.010, 49.60.020, 49.60.030, 49.60.040, 49.60.120, 49.60.130, 49.60.175, 49.60.176, 49.60.178, 49.60.180, 49.60.190, 49.60.200, 49.60.215, 49.60.223, 49.60.224, 49.60.225, and 48.30.300; and reenacting and amending RCW 49.60.222."

#### MOTION

Senator Benton moved that the following amendment by Senator Benton to the committee striking amendment be adopted.

On page 1, line 12 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 1, line 23 of the amendment, after "orientation," insert "political party affiliation."

On page 2, line 4 of the amendment, after "orientation," insert "political party affiliation."

On page 2, line 17 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 3, line 9 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 4, line 33 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 7, line 16 of the amendment, after "disability"

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insert ";

(25) "Political party affiliation" means to voluntarily associate with a partisan political organization"

On page 7, line 34 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 8, line 26 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 9, line 9 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 9, line 19 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 10, line 7 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 10, line 28 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 10, line 36 of the amendment, after "sexual orientation" insert "or political party affiliation"

On page 11, line 2 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 11, line 8 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 11, line 21 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 11, line 32 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 11, line 37 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 12, line 6 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 12, line 15 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 12, line 22 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 13, line 4 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 13, line 16 of the amendment, after "orientation," insert "political party affiliation."

On page 16, line 32 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 17, line 6 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 17, line 13 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 18, line 10 of the amendment, after "sexual orientation," insert "political party affiliation."

On page 19, line 2 of the amendment, after "status," insert "political party affiliation."

On page 19, line 7 of the amendment, after "status," insert "political party affiliation."

Senator Benton spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Prentice spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 1, line 12 to the committee striking amendment to Engrossed Substitute House Bill No. 2661.

The motion by Senator Benton failed and the amendment to the committee striking amendment was not adopted by voice vote.

## MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Stevens to the committee striking amendment be adopted.

On page 6, line 6 of the amendment, after "identity" insert "but does not include bestiality, necrophilia, incest, adultery, pedophilia, or sadomasochism"

Remember the sections consecutively and correct any internal references accordingly.

## WITHDRAWAL OF AMENDMENT

On motion of Senator Hargrove, the amendment by Senators Hargrove and Stevens on page 6, line 6 to the committee

striking amendment to Engrossed Substitute House Bill No. 2661 was withdrawn.

## MOTION

Senator Benton moved that the following amendment by Senator Benton, on page 7, line 16 to the committee striking amendment be adopted.

On page 7 line 16 of the amendment, after "disability" insert ";

(25) "Physical disability" also includes individuals with obesity"

Senator Benton spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Fairley spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 7, line 16 to the committee striking amendment to Engrossed Substitute House Bill No. 2661.

The motion by Senator Benton failed and the amendment to the committee striking amendment was not adopted by voice vote.

## MOTION

Senator Swecker moved that the following amendment by Senator Swecker to the committee striking amendment be adopted.

On page 19, after line 13, insert the following:

"NEW SECTION. Sec. 19. The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

On page 19, line 18 of the title amendment, after "48.30.300;" strike all material through "49.60.222." and insert "and providing for submission of this act to a vote of the people."

Senators Swecker and Deccio spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Brown spoke against adoption of the amendment to the committee striking amendment.

Senator Esser demanded a roll call.

The President declared that one-sixth of the Senate support the demand. The demand is sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 19, line 13 to the committee striking amendment to Engrossed Substitute House Bill No. 2661.

## POINT OF INQUIRY

Senator Benton: "Would Senator Brown yield to a question? Senator Brown, you stated that the bill does not contain an emergency clause and yet I noticed we did pass a committee amendment so the bill will be going back to the other chamber for its approval. If the bill comes back to this body with an emergency clause on it, would you oppose it?"

Senator Brown: "Senator, when the bill goes to the other body I think its not in our preview to discuss what happens there but it is my preference that we pass this bill with neither an emergency clause nor a referendum clause."

## ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Swecker to the committee striking and

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the amendment was not adopted by the following vote: Yeas, 23; Nays, 25; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Brandland, Carrell, Deccio, Delvin, Esser, Hargrove, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Roach, Schmidt, Schoesler, Sheldon, Stevens and Swecker - 23

Voting nay: Senators Berkey, Brown, Doumit, Eide, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 25

Excused: Senator Zarelli - 1

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Financial Institutions, Housing & Consumer Protection to Engrossed Substitute House Bill No. 2661.

The motion by Senator Fairley carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed Substitute House Bill No. 2661 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

Senator Esser objected to suspending the rules to advance the bill to third reading and final passage.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute House Bill No. 2661 was deferred and the bill held its place on the day's calendar.

PERSONAL PRIVILEGE

Senator Rasmussen: "Mr. President, today is Autism day in Olympia and many of your offices will be visited by people that care about this issue and I'll remind you that one out of every hundred-sixty six children born are autistic. They desperately need our help and today in the Rotunda from 1:30-3:00 you'll be able to visit and meet some of these people. Thank you."

MOTION

At 12:34 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon Thursday, January 26, 2006.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

2661-S  
 Committee Report ..... 2  
 Other Action ..... 12, 13  
 Second Reading ..... 6  
 Second Reading Amendment ..... 6, 7, 11, 12  
 6199  
 Committee Report ..... 1  
 6204  
 Committee Report ..... 1  
 6217

|                                 |   |   |                            |    |
|---------------------------------|---|---|----------------------------|----|
| Committee Report                | 1 | 8036  | Introduction & 1st Reading | 4  |
| 6247 Committee Report           | 1 | 8037  | Introduction & 1st Reading | 4  |
| 6257 Committee Report           | 1 | 8699  | Adopted                    | 5  |
| 6262 Committee Report           | 1 |   | Introduced                 | 4  |
| 6381 Committee Report           | 1 | 9104 David Lamb                                 | Confirmed                  | 6  |
| 6396 Committee Report           | 1 |   | Confirmed                  | 5  |
| Other Action                    | 2 | 9331 Karen Lee                                  | Confirmed                  | 5  |
| 6431 Committee Report           | 2 | 9388 Juli Wilkerson                             | Confirmed                  | 5  |
| 6575 Committee Report           | 2 | <b>PRESIDENT OF THE SENATE</b>                  |                            |    |
| Other Action                    | 2 | Intro Special Guest, Gerrit Kobes, Kevin Whalen |                            | 5  |
| 6594 Second Reading             | 6 | <b>WASHINGTON STATE SENATE</b>                  |                            |    |
| 6594-S Second Reading           | 6 | Moment of Silence, Donald Zarelli               |                            | 6  |
| Third Reading Final Passage     | 6 | Personal Privilege, Senator Rasmussen           |                            | 13 |
| 6653 Committee Report           | 2 | Point of Inquiry, Senator Benton                |                            | 12 |
| 6680 Committee Report           | 2 | Point of Personal Privilege, Senator Honeyford  |                            | 5  |
| 6807 Introduction & 1st Reading | 2 |   |                            |    |
| 6808 Introduction & 1st Reading | 2 |   |                            |    |
| 6809 Introduction & 1st Reading | 2 |   |                            |    |
| 6810 Introduction & 1st Reading | 2 |   |                            |    |
| 6811 Introduction & 1st Reading | 2 |   |                            |    |
| 6812 Introduction & 1st Reading | 3 |   |                            |    |
| 6813 Introduction & 1st Reading | 3 |   |                            |    |
| 6814 Introduction & 1st Reading | 3 |   |                            |    |
| 6815 Introduction & 1st Reading | 3 |   |                            |    |
| 6816 Introduction & 1st Reading | 3 |   |                            |    |
| 6817 Introduction & 1st Reading | 3 |   |                            |    |
| 6818 Introduction & 1st Reading | 3 |   |                            |    |
| 6819 Introduction & 1st Reading | 3 |   |                            |    |
| 6820 Introduction & 1st Reading | 3 |   |                            |    |
| 6821 Introduction & 1st Reading | 3 |   |                            |    |
| 6822 Introduction & 1st Reading | 3 |   |                            |    |
| 6823 Introduction & 1st Reading | 3 |   |                            |    |
| 6824 Introduction & 1st Reading | 3 |   |                            |    |
| 6825 Introduction & 1st Reading | 3 |   |                            |    |
| 6826 Introduction & 1st Reading | 3 |   |                            |    |
| 6827 Introduction & 1st Reading | 4 |   |                            |    |
| 6828 Introduction & 1st Reading | 4 |   |                            |    |
| 6829 Introduction & 1st Reading | 4 |   |                            |    |
| 6830 Introduction & 1st Reading | 4 |   |                            |    |
| 6831 Introduction & 1st Reading | 4 |   |                            |    |
| 6832 Introduction & 1st Reading | 4 |   |                            |    |
| 8035 Introduction & 1st Reading | 4 |   |                            |    |